

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FERNANDO MORALES, Individually,)
and on behalf of his minor children, F.M. and)
D.M. and ZERENIA CARDOZA, in her)
individual capacity,)
Plaintiffs,)
v.)
ENRIQUE CARRILLO, AARON CARRILLO,)
JULIO GUEREGA, PETE HERRERA,)
GABRIEL LECHUGA, RUBEN CARDENAS,)
MIGUEL CARZOLI, ALBERTO AGUIRRE,)
JUAN FERRREL, JOSEPH VALENZUELA,)
THE CITY OF EL PASO, TEXAS, and the)
EL PASO POLICE DEPARTMENT,)
Defendants.)
Cause No.: 3:19-CV-00217

DEFENDANTS' JOINT NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446, Defendants, ENRIQUE CARRILLO, AARON CARRILLO, PETE HERRERA, GABRIEL LECHUGA, RUBEN CARDENAS, ALBERTO AGUIRRE, MARTIN GONZALEZ, JOSEPH VALENZUELA, CHIEF GREG ALLEN, THE CITY OF EL PASO, TEXAS, and the EL PASO POLICE DEPARTMENT, file their Notice of Removal, and as grounds therefore would show as follows:

1. Defendants, ENRIQUE CARRILLO, AARON CARRILLO, PETE HERRERA, GABRIEL LECHUGA, RUBEN CARDENAS, ALBERTO AGUIRRE, MARTIN GONZALEZ, JOSEPH VALENZUELA, CHIEF GREG ALLEN, THE CITY OF EL PASO, EL PASO, TEXAS, and the EL PASO POLICE DEPARTMENT (hereinafter “Defendants”) are named as Defendants in Cause Number 2019DCV2480, a civil action commenced in the County Court at Law Number six of El Paso County, Texas, styled *“Fernando Morales, Individually, and on*

behalf of his minor children, F.M. and D.M., and Zerenia Cardoza, in her individual capacity v. Enrique Carrillo, Aaron Carrillo, Julio Guereca, Pete Herrera, Gabriel Lechuga, Ruben Cardenas, Miguel Carzoli, Alberto Aguirre, Juan Ferrel, Joseph Valenzuela, The City of El Paso, Texas, and the El Paso Police Department” (hereinafter referred to as “the state court action”). As required by 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served upon the Defendant in the state court action are attached to this notice as Exhibit “A”.

2. The state court action described above is one over which this Court has original jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(1)(2) and (4), and may therefore be removed to this Court pursuant to 28 U.S.C. § 1441(a) without regard to the citizenship of the parties or the amount in controversy, in that it is a civil action arising under the United States Constitution for purported violations of the Plaintiffs’ civil rights under Section 1983 and Section 1985 of the Federal Civil Rights Act (42 U.S.C. § 1983, §1985) by alleged unreasonable search and seizure and alleged excessive, unreasonable and unjustified force.

3. On or about July 22, 2019, Defendant Officers RUBEN CARDENAS, ALBERTO AGUIRRE and ENRIQUE CARRILLO received Plaintiffs’ First Amended Petition in the state court action asserting causes of action alleging violation of plaintiffs’ civil rights. This notice is therefore timely under 28 U.S.C. § 1446(b), as it is being filed within thirty (30) days from date of the Defendants’ first receipt of the pleading upon which the plaintiffs’ claims are based.

4. In accordance with 28 U.S.C. § 1446(d), the undersigned attorneys for these Defendants certify that they have given notice of this removal to all adverse parties and has filed a copy of this notice with the Clerk of the District Court of El Paso County, Texas.

5. Counsel for all Defendants have been consulted and all Defendants and their attorneys are in agreement with this Notice of Removal which is consented to unanimously by all Defendants who have been served as indicated by the signature of their respective attorneys below.

WHEREFORE, Defendants ENRIQUE CARRILLO, AARON CARRILLO, PETE HERRERA, GABRIEL LECHUGA, RUBEN CARDENAS, ALBERTO AGUIRRE, MARTIN GONZALEZ, JOSEPH VALENZUELA, CHIEF GREG ALLEN, THE CITY OF EL PASO, EL PASO, TEXAS, and the EL PASO POLICE DEPARTMENT pray that this case proceed in this Court as an action properly removed thereto.

DATED: August 9, 2019.

Respectfully submitted,

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Respectfully submitted,

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Eric M. Brittain, hereby certify that a true and correct copy of the foregoing Answer was ELECTRONICALLY FILED with the Clerk of the Court using the CM/ECF system and that this document has been electronically served on all parties registered for service via the CM/ECF system on this the 9th day of August, 2019.

/s/ Eric M. Brittain

Eric M. Brittain